

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.3572 OF 2007

Between:

Mohammed Khaja Moinuddin

. . .Petitioner

AND

Municipal Corporation of Hyderabad
and others

. . .Respondents

:: ORDER ::

Counsel for the Petitioner : Shri Mirza Nisar Ahmed Baig
Nizami

26th February, 2007

PER G.S.SINGHVI, CJ

In this petition filed in the name of Public Interest Litigation, the petitioner has prayed for appointment of an Advocate Commissioner to verify the actual width of the road stretching from Moti Galli cross road and Mahboob Chowk cross road and also for demolition of the unauthorized structures which are said to have come up over the Government land towards northern side of the road facing Moti Galli cross road and Mahboob Chowk cross road.

In the affidavit filed by him, the petitioner has averred that even though the suit filed by the land owners, who were likely to be affected by the road widening programme undertaken by the Municipal Corporation of Hyderabad were dismissed and the order of the trial court was confirmed in appeal, the official respondents have failed to maintain the width of the road and have not taken steps to remove the encroachments.

We have heard Shri Mirza Nisar Ahmed Baig Nizami, learned counsel for the petitioner and perused the record. In our opinion, the writ petition is liable to be dismissed because,

- 1) the petitioner has not impleaded any of those persons, who are said to have made encroachment and illegal constructions, as party respondents and without issuing notice and hearing them, the Court can neither record a finding regarding encroachment nor pass an order for demolition of particular structure;
- 2) the petitioner has claimed that he is a social worker, has been regularly conducting medical camps for poor, blood donation camps, health check-ups for poor children and is also engaged in

providing skill upgradation training to educated and unemployed women, but has not placed any tangible evidence to support this assertion, and

3) the allegations of alleged encroachment of illegal construction by the persons, who, as mentioned above, have not been impleaded as party respondents, are too vague so as to justify a detailed probe by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

We are further of the view that the issues raised in the petition regarding the alleged illegal encroachment and violation of the building rules etc., require adjudication on facts and for that purpose, an effective remedy is available to him by filing civil suit.

For the reasons stated above, the writ petition is dismissed leaving the petitioner free to avail remedy by filing civil suit.

As a sequel to dismissal of the main petition, W.P.M.P.Nos.4543 and 4544 of 2007 filed by the petitioner for interim relief are dismissed as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 26.02.2007
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